



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

January 17, 2006

The Honorable David P. Currier, Chairman
Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, New Hampshire 03301

Re: HB 1259, relative to classification of wetlands as contributing or noncontributing

Dear Chairman Currier:

Thank you for the opportunity to comment on HB 1259, which would require the department to develop criteria for classifying wetlands as contributing or noncontributing and makes noncontributing wetlands exempt from regulation. DES is opposed to this proposed legislation for a number of reasons.

First, it is unclear what method DES could develop to achieve a useful and workable distinction between "contributing" or "noncontributing" wetlands. Over many years various individuals and groups have attempted, unsuccessfully, to develop a scientific method to evaluate and rank wetlands to accomplish just such a task.

Even if DES were able to develop such a classification method, the costs associated with that effort would be extraordinary. For example, in the past, DES has explored the purchase of statewide aerial photography as a tool for evaluating general wetland types and distribution. The costs associated with that work item alone have been estimated to be in the range of \$1-2 million. To include the property specific assessments necessary to adequately identify and map all of the wetlands throughout the state in order to implement HB 1259 in any sort of useful manner would require millions of dollars more. Even if the department were able to achieve this goal, wetland systems are not static but are continually evolving over time. This means that the information and maps would need to be continually updated requiring significant recurring costs.

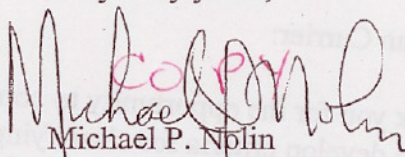
Finally, a change in the state wetlands classification standards would not change the federal system. This has significant ramifications for wetlands permit applicants and how the wetlands program is implemented in New Hampshire. For example, a change in state wetlands classification methods would force the termination of the State Programmatic General Permit (SPGP) issued by the US Army Corps of Engineers to the State of New Hampshire. The SPGP was developed cooperatively with the Corps so as to create a streamlined and cost effective process to coordinate state and federal application review and permit issuance. As it is today, this process is seamless to most applicants, with only those larger projects that impact more than

January 17, 2006

three acres of wetlands requiring an individual wetlands permit directly from the Corps. Termination of the SPGP would force applicants to apply directly to the Corps for each and every impact to federally regulated wetlands in addition to applying to DES for state-regulated wetlands, where these jurisdictions overlap. This would be an unmanageable or, at best, a difficult, cumbersome, and expensive process for most applicants. In addition, failure by the state to mirror the federal regulatory process would mean a loss of federal funds to the wetlands bureau. These federal funds account for approximately 25% of the bureau's operating budget. Loss of these funds would be devastating to the program.

Thank you for this opportunity to comment. Please call me at 271-3503, or Collis Adams at 271-4054, if you have any questions or need additional information.

Very truly yours,


Michael P. Nolin
Commissioner

cc: Representative Mirski